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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William Alsup, Judge

GOOGLE LLC,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	<b>NO. C 20-06754-WHA</b>
	)	
SONOS, INC.,	)	
	)	
Defendant.	)	
_____	)	

San Francisco, California  
Thursday, January 6, 2022

**TRANSCRIPT OF REMOTE TELEPHONIC PROCEEDINGS**

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Thursday - January 6, 2022

11:31 a.m.

P R O C E E D I N G S

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**THE CLERK:** Please remember to identify yourself each time.

Calling Civil Action 20-6754, Google, LLC versus Sonos, Inc.

Counsel, please state your appearances for the record beginning with plaintiffs.

**MS. COOPER:** Good morning, Your Honor. Lindsay Cooper, Quinn Emanuel, for Google. With me are my colleagues, Jocelyn Ma and Nima Hefazi. Ms. Ma is a fifth-year associate, and she'll be arguing for Google today. Also on the line is Patrick Westin, in-house counsel for Google.

**THE COURT:** All right. Welcome to all of you.  
And for Sonos?

**MR. RICHTER:** Good morning, Your Honor. Cole Richter on behalf of Sonos. And with me today is Clem Roberts from Orrick Herrington, also on behalf of Sonos.

**THE COURT:** All right.

So this is not really a discovery dispute at all. This is a question concerning the adequacy of disclosures. I could deny the whole thing on that ground. It's not a discovery dispute. It's dressed up and masquerading as a discovery dispute, but I'm going to hear you anyway.

1           So on your first request, I'll give you one minute to  
2       summarize the request and one minute to hear from the other  
3       side, and then I got some questions.

4           So, please, go ahead.

5           **MS. MA:** Thank you, Your Honor. This is Jocelyn Ma  
6       for Google.

7           The first issue relates to Sonos's contentions for the  
8       '615 patent and specifically Claim 13 of that patent. One of  
9       the elements of that claim recites a local playback queue, but  
10      as it stands now, Sonos's claim chart doesn't actually identify  
11      what it contends is a local playback queue or where it can be  
12      found in the accused instrumentalities, as required by Patent  
13      Local Rule 3-1(c).

14          When we met and conferred about the issue, Sonos  
15      originally refused to provide any more information, so Google  
16      had -- Googled filed this letter. But in its response filed  
17      yesterday, Sonos has actually agreed to provide a supplement  
18      with further detail. Obviously, Google will take Sonos up on  
19      its offer to supplement within 14 days, and, you know, looks  
20      forward to seeing that.

21          But I did want to clarify one point. In Sonos's response  
22      letter, it points to certain code and relating to the local  
23      playback queue, but I do want to make clear that's actually  
24      code that creates the queue, as even Sonos describes it, not  
25      queue for the actual -- it's not code for the actual queue

1     itself.

2             So Sonos still has yet to tell us exactly what the local  
3     playback queue is, or the code that is mapping that limitation.

4             So that is information that we want to clarify that we  
5     still do need from Sonos in its supplement.

6             **THE COURT:**   Would you -- you did a very good job of  
7     making that succinct, but would you repeat the last part about  
8     the local playback queue?  You were making some special point  
9     there and I just didn't grasp it.  Say it again, please.

10            **MS. MA:**    Sure.  I apologize, Your Honor.  I was trying  
11     to fit everything in one minute.

12            But I did want to clarify one point that Sonos made in its  
13     response letter.  Sonos does point to, you know, does identify  
14     certain lines of code, but those lines are code don't  
15     actually -- they don't map the limitation itself.  They don't  
16     make clear what is the local playback queue.  It it's actually  
17     code for what creates the queue.  And that's how Sonos  
18     describes it.

19            So that didn't actually provide Google with the  
20     information it's seeking.  And we understand that Sonos does  
21     plan to provide more information, but we do want to clarify,  
22     you know, in its supplement that is information Google still  
23     needs, despite Sonos's response.

24            **THE COURT:**   Well, I thought you said that they would  
25     be beef that up in 14 days.

1           **MS. MA:** That -- Sonos has agreed to do so. We just  
2 want to make sure that that supplement does have the  
3 information Google still needs.

4           **THE COURT:** All right. Okay. Now, let's hear from  
5 Sonos.

6           **MR. RICHTER:** Hi, Your Honor. Cole Richter on behalf  
7 of Sonos.

8           Ms. Ma summarized that -- summarized the dispute  
9 accurately. There doesn't appear to be a dispute that Google's  
10 media players have a queue. The dispute seems to be about  
11 whether Sonos has specifically identified the source code that  
12 constitutes the queue. You know, given the extent of the  
13 source code at issue, you know, Sonos has identified specific  
14 functions and line numbers that it contends is responsible for  
15 creating that queue; we agree with Google on that.

16           As we had -- unfortunately, we haven't been afforded the  
17 discovery that we think a DJ plaintiff, who is asking this  
18 Court for an affirmative ruling that its products do not  
19 infringe this limitation, you know, should have provided.

20           So rather than do it in the piecemeal way that Google  
21 wants it, which is -- which we have agreed to do, we think the  
22 better course is to allow us to question a Google engineer, a  
23 deposition, and then move to supplement if that deposition  
24 reveals additional information.

25           But, yes, to avoid any issues before this Court and reduce

1 the number of issues, we would agree to provide more  
2 information by 14 days.

3           **THE COURT:** Let me ask this question: You raise a  
4 point that I worried over some time ago, and maybe it was even  
5 this case. It seems like Google -- Google was trying to anchor  
6 jurisdiction here, and filed a DJ case, but failed -- utterly  
7 failed to explain why it did not infringe. And then -- but  
8 then didn't Google amend to explain why it did not infringe?

9           Help me on that point. In other words, it amended its  
10 complaint to lay out why it did not infringe.

11           Am I right about that? What am I remembering? Go ahead.  
12 This go ahead this is first --

13           **MR. RICHTER:** Yes. Thank you, Your Honor. This is  
14 Cole Richter again on behalf of Sonos.

15           You have that exactly right, Your Honor. Google filed, at  
16 your order, a first amended complaint. Their original  
17 complaint simply said: We don't infringe.

18           Their first amended complaint said: Well, we don't  
19 infringe because we don't have a list of songs.

20           So they provided that "because" part. So what's still  
21 missing from this whole case, Your Honor, is an explanation  
22 from Google as to how their products actually work.

23           So as we detailed in the letter, for instance, five months  
24 ago in August, we, Sonos, sent Google an interrogatory -- two  
25 interrogatories, among others, but the first one said: Please

1 explain how the Google products play back a sequence of media  
2 items.

3 In response to that, Google said: Well, why don't you  
4 just go look at the entirety of our source code and -- to  
5 48,000 pages of documents.

6 And, you know, obviously, we've been doing the best we  
7 can. The second interrogatory I mentioned we said: Please  
8 explain why you contend you don't infringe.

9 And Google provided a bullet list of claim elements that  
10 they say are not practiced, but no explanation as to what  
11 they're doing instead, or why they say they are not practicing.

12 **THE COURT:** Well, but how -- it could be that a list  
13 of reasons why they don't infringe -- how detailed is that  
14 list?

15 **MR. RICHTER:** The list is a recitation of claim  
16 elements, quotations of claim elements that they contend are  
17 not practiced.

18 **THE COURT:** All right. Is it true that you're willing  
19 to supplement within 14 days?

20 **MR. RICHTER:** Yes, that's true, Your Honor. We're --  
21 we would be willing to do the best we can to supplement some  
22 more information for this claim element. I would hope that it  
23 would be without prejudice to Sonos's ability to move for leave  
24 to supplement in the future should discovery reveal additional  
25 information.



1           **THE COURT:** Look. It is troubling to me that Google  
2 is trying to have it both ways, Google wants declaratory relief  
3 that it does not infringe, but it doesn't want to explain why  
4 it -- that, except to say, "These claim elements are missing,"  
5 but it doesn't explain why those claim elements are missing.

6           So before I go down that path too far, let me ask Ms. Ma.

7           Ms. Ma, is that correct, that your explanation for why you  
8 don't infringe simply recites missing claim elements but does  
9 not explain why they are missing?

10          **MS. MA:** I don't think that's correct. I think we  
11 do --

12          **THE COURT:** Well, what is correct?

13          Please, go ahead.

14          **MS. MA:** Sorry. I do want to clarify -- I'm sorry.  
15 Give me one moment.

16          I do think we provide explanations for why we don't  
17 infringe. I mean, one of reasons we don't infringe is because  
18 there is no local playback queue. That's -- that goes to the  
19 heart of the issue that we're discussing today.

20          And I think that's one point I do want to make clear, that  
21 I don't think Mr. Richter was correct about. The parties do  
22 disagree as to whether there is a local playback queue.  
23 Google's contention is that we don't.

24          And with respect to Sonos's argument that it's essentially  
25 Google's fault that its infringement contentions are deficient

1 because we haven't provided discovery, I would say that we  
2 provided source code almost a year ago. Sonos has had  
3 reviewers going in and analyzing that code. And we view the  
4 source code as, you know, the source of truth as to how our  
5 products operate.

6 So those interrogatories Mr. Richter talked about  
7 essentially ask Google to explain to Sonos how its products  
8 infringe. And, you know, that's just -- that's not Google's  
9 burden. And we have pointed them to the source code which we  
10 believe has all the information with respect to how our  
11 products operate.

12 **THE COURT:** I'm going to pause there for a second.

13 Let me ask Sonos this: It seems to me that we're dealing  
14 with three specific apps -- a-p-p-s, apps. And apps are run by  
15 source code. And counsel says you have had the source code for  
16 a year, almost a year was your phrase; and so, by now, you  
17 should have been able to figure out from the source code  
18 whether the apps infringe or not.

19 So what's your answer to that?

20 **MR. RICHTER:** Yes, Your Honor. This is Cole Richter  
21 on behalf of Sonos again.

22 There is actually more than three apps, but there is three  
23 kind of categories of apps. It is true that, you know, Sonos  
24 has been inspecting the source code since, I believe, the end  
25 of March or possibly the beginning of April. And we have cited

1 the source code that Sonos believes is responsible for creating  
2 the queue and meeting this claim element, and we put that  
3 source code in our response letter.

4 I guess I would respond to Google that, you know,  
5 producing the source code is not a substitute for obligations  
6 under discovery, particularly where, you know, an entity has  
7 come to this Court and asked for a ruling that it doesn't  
8 infringe. And so our interrogatory did not say, "Explain why  
9 Google infringes." It, in fact, said, "Explain how Google's  
10 media players play back a sequence of media items," but not --  
11 not an admission of infringement or anything like that. In  
12 fact, it's just a request for -- to explain how Google's  
13 products work in that regard.

14 We got no response. Rather, of the response that we got  
15 was just, "Please look at the 20,000 pages and you might be  
16 able to find that answer in there." And, in fact, we have not  
17 found the answer. And so again, like we cited the source code,  
18 Your Honor, we pointed that out to you in the letter, and we're  
19 willing to provide some more supplementation as best we can.  
20 But we would really request that we be permitted the  
21 opportunity to question the Google engineers responsible for  
22 this functionality.

23 **MR. ROBERTS:** And, Your Honor, this is Mr. Roberts,  
24 also for Sonos. I apologize for interrupting.

25 I want to point out that there was no discovery in Texas.

1 Under the local rules, you cannot take fact discovery until  
2 after claim construction. This case then ended up getting  
3 transferred and brought over here and discovery was stayed. So  
4 really the entirety of the record that we're talking about is  
5 really discovery here.

6 And what Google is basically saying is: Hey, you haven't  
7 moved to compel us to force us to give you the discovery.

8 We have been trying to meet and confer with them to work  
9 it out with them, which is what we were doing beforehand, and  
10 perhaps we should move. But what we are trying to do is meet  
11 them halfway, provide them with the information we currently  
12 can provide them with in a supplement.

13 And as Your Honor notes, we think their discovery  
14 responses are troubling and, perhaps, the thing that we ought  
15 to do is be teeing up a motion to compel with you.

16 **MS. MA:** Your Honor, this is --

17 **THE COURT:** Has all of this -- is it true that you've  
18 had the source code for almost a year?

19 **MR. ROBERTS:** We've had the source code for, I believe  
20 seven months.

21 I'm sorry. This is Mr. Roberts.

22 **THE COURT:** Wait. Seven months.

23 **MR. ROBERTS:** Yes, Your Honor.

24 **THE COURT:** Ms. Ma, you said almost a year.

25 **MS. MA:** I apologize, Your Honor. It was

1 seven months. In March of 2021, Google provided source code to  
2 Sonos toes.

3           **THE COURT:** You should not -- I lose confidence in  
4 what you tell me whenever you say "almost a year" but it turns  
5 out to be seven months. Now, 11 months or 10 months might be  
6 "almost a year," but seven is barely more than half a year. So  
7 it's a small point, but I got to do these things by trusting  
8 the lawyers, and if I can't trust you, you see where -- it's  
9 hard.

10           All right. I have a broad suggestion here: With respect  
11 to Google Request Number 1 and 2, and probably 3, but give  
12 14 days for Sonos to beef up its contention interrogatories.  
13 That's step 1. And it's got to do a good job.

14           Number 2, I would then allow two depositions. One would  
15 be a deposition of an engineer at Google to explain why there  
16 is no local playback queue. That would be done in about  
17 two weeks -- three or four weeks, max; it would be done this  
18 month.

19           And then there would be in the same week -- the very same  
20 week, don't try to wiggle out of this -- the Sonos engineer or  
21 expert would then have to explain under oath why there is a  
22 local playback queue.

23           And then -- then the final from that would be I will give  
24 each side a very short time to beef up the contention  
25 interrogatory -- not interrogatories, these disclosures. And

1 then maybe -- I don't know -- maybe there will be a motion for  
2 summary judgment.

3 All right. I'm going to let you try to talk me out of  
4 that on the -- first of all, Sonos, you get to try to talk me  
5 out of that.

6 **MR. ROBERTS:** Your Honor, this is Mr. Roberts.

7 The only piece of it I would like to talk you out of is  
8 the second deposition, because it's effectively saying that  
9 Sonos should produce an expert without an expert report one  
10 week after getting the information from Google in the first  
11 instance.

12 And I would point out to Your Honor, we always have a  
13 shootout procedure going. There is a very tight set of  
14 timelines around that. If what Your Honor wanted to order was  
15 that we take that deposition and then we promptly move to  
16 supplement our final infringement contentions with the  
17 additional information that we have gained in that, that would  
18 be totally fine with me and make sense.

19 And then we could feed everything else that you want to do  
20 in terms of, you know, the fast discovery, prompt summary  
21 judgment motions --

22 **THE COURT:** You can't just shake the fleas out of your  
23 vest. That's no good. You don't get a deposition without  
24 putting somebody up for a deposition, so end of that story.

25 All right. I'm just going to order, you've got to get

1 proper -- you got 14 days in which to amend on Request 1 and 2.

2 All right. Now, let's go to the Request 3, and I'll give  
3 the Google lawyer one minute to explain what the problem there  
4 is.

5 **MS. COOPER:** Your Honor, this is -- I apologize for  
6 jumping in. This is Lindsay Cooper for Google.

7 I just wanted to clarify one thing. I hear that you  
8 ordered Sonos to provide updated infringement contentions  
9 within 14 days. Is the two-week period for the deposition of  
10 the Google engineer after those 14 days or is that during the  
11 same time?

12 **THE COURT:** I deleted that because the other side  
13 won't meet you halfway and produce an expert. I'm sorry. They  
14 are not going to get it both ways.

15 So you don't have to produce an engineer unless it's just  
16 pursuant to ordinary discovery, and I'm not ordering that right  
17 now. All I'm ordering is that they got to beef up their  
18 disclosures within 14 days, and I'm not ordering any  
19 depositions because Sonos refuses to do so.

20 I'm sorry. All right. Go ahead. What problem do you  
21 have with that?

22 **MS. COOPER:** No problem with that, Your Honor. Thank  
23 you for clarifying.

24 **THE COURT:** All right. Let's go to your third  
25 request. What do you want to do on that?

1           **MS. MA:** Thank you, Your Honor. This is Jocelyn Ma  
2 again, for Google.

3           The second issue is that Sonos's contentions don't  
4 currently identify the accused instrumentalities with enough  
5 specificity to satisfy Patent Local Rule 3-1(b), which -- as  
6 I'm sure Your Honor knows -- requires identification as  
7 specifically as possible, and by name or model number, if  
8 known.

9           Sonos currently identifies the products by category and  
10 functionality using categories like "cast-enabled apps,"  
11 "cast-enabled displays," and, "smartphones, tablets, and  
12 computer devices installed with cast-enabled apps." As a  
13 housekeeping matter, Sonos has already agreed to limit the  
14 first two categories, so that's "cast-enabled apps" and  
15 "cast-enabled displays," by the ones that it named in its  
16 contentions, so those two categories are no longer in dispute.

17           But the third one is still at issue, which is that Sonos  
18 hasn't agreed to limit smartphones, tablets, and computer  
19 devices to the Google Pixel devices its identified as sort of  
20 representative examples.

21           So it appears Sonos is basically attempting to hold open  
22 this category of accused products so it can include, you know,  
23 any hardware device, even ones that aren't made by Google, that  
24 may have a cast-enabled application installed on them, but to  
25 avoid having to specifically identify what those devices are.



1 And, in our view, that sort of placeholder is improper and  
2 exactly the kind of categorical identification that's been  
3 interjected in cases like *Oracle versus Google* and *Finjan*  
4 *versus Proofpoint*.

5 In the Oracle case, the Court rejected, you know, very  
6 similar contentions that identified products as "mobile devices  
7 running Android," because that wasn't sufficiently specific.  
8 And, ultimately, Google was only allowed to proceed on products  
9 that were actually named by model. So we would ask that  
10 the Court, you know, similarly hold here and strike any  
11 references to unidentified instrumentalities in Sonos's  
12 contentions, and limit Sonos to the Pixel devices that it has  
13 name.

14 **MR. ROBERTS:** Your Honor, this is Mr. Roberts. If I  
15 may respond.

16 **THE COURT:** Yes, please.

17 **MR. ROBERTS:** Okay. Okay.

18 So the allegation of infringement is that the application  
19 itself infringes when running on any device. That is  
20 sufficient to identify for them what is being accused. It is  
21 the app when running on any device.

22 We have given the make and model numbers that we have been  
23 able to identify from the Internet, that we are able to pull  
24 out. But, Google knows every single one of the devices because  
25 it has to approve them. As soon as they give us a list of the

1 devices that its apps run on, we will take that list, staple it  
2 as Exhibit A, and that is the list of make and model numbers.  
3 But it is not physically possible for us to find those things  
4 that it runs on, and this is why we have asked them for that in  
5 discovery. And as soon as they provide it, we will absolutely  
6 provide it by make and model number; but they have that  
7 information, not us.

8 And we have given them exactly what our infringement  
9 theory is. There is no confusion or ambiguity about that  
10 infringement theory, so they know what is accused; they know  
11 the functionality that is accused; they know what product we  
12 intend to accuse. And the only thing they are doing is saying:  
13 No. No. You have to find all the make and model numbers  
14 before you get discovery from us, even though we have a list of  
15 all those make and model numbers.

16 **THE COURT:** Why isn't that correct, Ms. Ma?

17 **MS. MA:** Thank you, Your Honor.

18 The claims are directed -- these are device claims so,  
19 you know, Sonos as the accuser has the burden of identifying  
20 all the devices that allegedly infringe, and since Sonos hasn't  
21 identified any non-Pixel devices, they should be limited to  
22 ones that they have identified.

23 The *Oracle* plaintiffs made this -- the exact same argument  
24 where they said, "Google has the information because it knows  
25 all the devices that run Android." But this Court, you know,

1 rejected that argument saying, regardless -- you know, even if  
2 Google could come up with some list -- and I'm not saying  
3 whether Google could or not -- it's still the burden of the  
4 accuser to specifically identify all of the accused products;  
5 particularly because these are device claims.

6 **THE COURT:** All right. Let me go back to --

7 **MR. RICHTER:** Your Honor --

8 **THE COURT:** Wait. Wait.

9 Now, it's important for me to understand. I thought these  
10 were claims that covered apps, but now I'm hearing they cover  
11 devices. Somebody is not telling me the truth.

12 I want to hear from Sonos on this. Go ahead.

13 **MR. RICHTER:** Hi, Your Honor. Yes. This is Cole  
14 Richter.

15 Some claims asserted cover a computer-readable medium, and  
16 so those would be claims where the app is stored on a CD or a  
17 thumb drive or server. Some other claims cover a device with  
18 the app installed. So all of the prescient claim limitations,  
19 or all of the claim limitations at issue here are functionality  
20 that are provided by the app source code itself. And so this  
21 is a little bit different than all the other cases that Google  
22 cited, particularly the *Oracle* one.

23 And all those other cases where parties have been limited  
24 to devices that they've named in their contentions are cases  
25 where some amount of diligence could have discovered the

1 correct devices. Here, however, the apps have to be installed  
2 by end users. They have to be downloaded via the app store and  
3 installed by end-users for the devices we aren't aware of.

4 So we've named the Google devices that, for instance,  
5 Google has pre-installed the apps on, or that we're aware that  
6 Google makes. But the rule only requires -- according to my  
7 reading -- an identification of devices that all of each  
8 opposing parties -- that would be Google -- that the other  
9 parties, Sonos, is aware of and that shall be identified by  
10 name and model number if known.

11 So we, you know, without conducting some sort of survey of  
12 end-users or having some sort of information like that, we  
13 can't -- the best we could do is just guess at what the devices  
14 end-users have actually installed these apps onto. And out of  
15 an abundance of caution, I suppose we could list several  
16 hundred phones and computers that are made throughout the  
17 world, but we aren't sure if any of those have actually been  
18 used to download the apps.

19 **THE COURT:** On this request, I am going to rule as  
20 follows: Sonos is going to have to take a chance. I don't  
21 understand the problem well enough to say whether this is  
22 adequate or not; in other words, what you have -- two of the  
23 three categories, you have reached a compromise. I'm only  
24 referring now to the third.

25 The third category, Sonos is going to take a risk. And

1 that is, if I later turn out -- rule that this is an inadequate  
2 disclosure, your case goes down the drain. That's your  
3 problem.

4 But I don't understand this well enough -- I understand  
5 what you're telling me is that you're not in a position to be  
6 more specific, and you have been as specific as you can, and  
7 there is nothing more that you could have done to be more  
8 specific. Okay. Maybe if that's -- all turns out to be true,  
9 when we get to trial, then I might forgive you. On the other  
10 hand, if it turns out you're just fooling me, and you really  
11 could have done a lot more to figure this out, then that part  
12 of your case is going to be dismissed.

13 So I'm not making any ruling beyond that. You're in a  
14 better position than me to figure out whether you're in trouble  
15 on that or not. And if you think you are, I urge you to fix it  
16 up now. But --

17 **MR. ROBERTS:** Your Honor, this is -- I apologize.

18 **THE COURT:** All right. Look. I'm not going -- you're  
19 not going to convince me to do more than that, and give you  
20 some kind of lifesaver.

21 All right. Go ahead. What do you want to say.

22 **MR. ROBERTS:** Yes. This is Mr. Roberts for Sonos.

23 Should we ask the Court to ask Google to produce a list of  
24 the products it knows the apps have been downloaded to? If  
25 Google --

1           **THE COURT:** Why haven't you asked that in an  
2     interrogatory way before now?

3           **MR. ROBERTS:** We have -- so discovery was stayed in  
4     the Texas case. We could not do so.

5           When you get to this case, we believe we have asked for it  
6     and it hasn't been provided. So I can come back here on a  
7     motion to compel, if that's Your Honor's preference.

8           **THE COURT:** I would grant that motion that -- within  
9     reason, as a general principle, I would grant that motion. So  
10    then -- but that still begs the question of whether or not  
11    you're already in a position to do better than you have. So  
12    see, you're --

13          **MR. ROBERTS:** I understand, Your Honor.

14          **THE COURT:** You're trying to pitch it like, "Oh, oh,  
15    we've got to get the discovery first," and maybe that's true.  
16    But on the other hand it could be that if -- the good lawyers  
17    that you are could have done a lot more due diligence before  
18    this lawsuit was filed, and I'm not as a position to judge that  
19    right now.

20          So I am not -- I am not taking back a word of what I said  
21    a moment ago. You are going to be in trouble if it turns  
22    out -- see, what you're trying to do is set up a defense: Oh,  
23    Judge, you said do an interrogatory. Oh, and you said you  
24    would grant it. And, oh, we waited to see what they would say.

25          No. You could be in trouble already and stay in trouble,

1 and it's up to you, but -- to decide whether you want to move  
2 to compel.

3 See? This is why patent cases have such a bad name,  
4 because of the gamesmanship that goes on here. You all should  
5 be trying to figure out a way, as good lawyers, to get to the  
6 heart of the problems, get discovery taken, put up witnesses.

7 And I proposed something practical a while ago, but Sonos,  
8 playing games, said: No. We're not going to do that. We're  
9 already in some kind of fast-track thing.

10 All right. So that's the ruling that I make: 14 days on  
11 request Number 1 and 2. And on Number 3, I have given you my  
12 caveats, and I'm not making any further orders, and you proceed  
13 at your own risk.

14 I have got to go to another case, so you all can now hand  
15 up and good luck to both sides.

16 Yes?

17 **MR. RICHTER:** Thank you, Your Honor. This is Cole  
18 Richter for Sonos.

19 May I ask a couple of housekeeping questions regarding  
20 some upcoming scheduling hearings for next week in these  
21 matters, Your Honor?

22 **THE COURT:** I don't know a thing about it. You mean,  
23 I got hearings in this case next week?

24 **MR. RICHTER:** Yes, actually. So they were -- there is  
25 this case and there's a related case, case 21-cv-7559. There

1 were some leftover scheduling hearings that were created back  
2 in August and back when the case was transferred. Your Honor,  
3 might not know about them, but I am curious about whether you  
4 intend to go forward.

5 **THE COURT:** I don't remember. If you think I can deal  
6 with this in about one minute, I'll let you try. But if it's  
7 too complicated, I just -- don't even bring it up now. So,  
8 you know, call it "housekeeping," but I got two other important  
9 matters to go to and I need to do that.

10 So can you do it in one minute?

11 **MR. RICHTER:** Yes, Your Honor. In fact, the question  
12 is just whether Your Honor intendeds to hold those status  
13 conferences. We think they are unnecessary since we're  
14 holding -- we held a status conference in October, but the  
15 questions is for Your Honor, if he would prefer to go forward  
16 with those status conferences.

17 **THE COURT:** If you both agree -- do you both agree we  
18 don't need it? If you do, I'll cancel it.

19 **MS. COOPER:** Your Honor, this is Lindsay Cooper for  
20 Google.

21 I think it would be helpful. We have a couple of disputes  
22 about the scope of discovery that we're working through in our  
23 case management statement due today. In addition, we have a  
24 hearing on Google's motion for leave to amend its complaint on  
25 the same day. That hearing is at 8:00 a.m., the case



1 management conferences are currently scheduled for 11:00.

2 So maybe what we could do is just do everything at  
3 8:00 a.m. and cancel the 11:00 a.m. hearing.

4 **THE COURT:** All right. That's what we're going to do.  
5 I'm not going to cancel anything, but I'll move it up to  
6 8:00 a.m. All right?

7 **MR. RICHTER:** Okay. Thank you, Your Honor.

8 I do note that that hearing is in person. Does Your Honor  
9 prefer that we come to San Francisco, or would you prefer a  
10 telephone hearing for that one, Your Honor?

11 **THE COURT:** Let me ask my -- how many -- is my -- I  
12 got to find out how many more matters I've got. And be aware  
13 there is at least a 50/50 chance I will have to do that by  
14 telephone on account of the pandemic. But --

15 **MR. RICHTER:** Understood, Your Honor.

16 **THE COURT:** One way or the other, we will have it.  
17 All right.

18 **MR. RICHTER:** Understood, thank you.

19 **THE COURT:** Good luck to both sides. You hang up.  
20 And now we go to another case. I'll wait for you to hang up.

21 (Proceedings adjourned at 12:04 p.m.)

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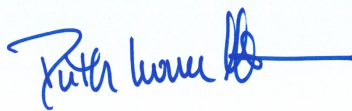
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**CERTIFICATE OF REPORTER**

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Thursday, January 13, 2021

A handwritten signature in blue ink, reading "Ruth Levine Ekhaus", followed by a horizontal line.

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Ruth Levine Ekhaus, RMR, RDR, FCRR, CSR No. 12219  
Official Reporter, U.S. District Court